

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

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| | | Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet) |
| Applicant's or agent's file reference see form PCT/ISA/220 | | FOR FURTHER ACTION See paragraph 2 below |
| International application No. PCT/IB2004/002182 | International filing date (day/month/year) 29.06.2004 | Priority date (day/month/year) 30.06.2003 |
| International Patent Classification (IPC) or both national classification and IPC G02C7/04 | | |
| Applicant FIALA, Werner J. | | |

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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| Name and mailing address of the ISA:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016 | Authorized Officer Seibert, J Telephone No. +31 70 340-4712 |  |
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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2004/002182

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. **type of material:**
 - a sequence listing
 - table(s) related to the sequence listing
 - b. **format of material:**
 - in written format
 - in computer readable form
 - c. **time of filing/furnishing:**
 - contained in the international application as filed.
 - filed together with the international application in computer readable form.
 - furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/I/B2004/002182

Box No. II Priority

1. The following document has not been furnished:

copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2004/002182

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

the entire international application,
 claims Nos. 1-25

because:

the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):
 the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-25 are so unclear that no meaningful opinion could be formed (specify):

see separate sheet

the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
 no international search report has been established for the whole application or for said claims Nos.
 the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form has not been furnished
 does not comply with the standard
the computer readable form has not been furnished
 does not comply with the standard

the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.
 See separate sheet for further details

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

- 1 The application does not meet the requirements of Article 6 PCT, because the independent claims 1, 7 and 16 are not clear. Therefore no opinion with regard to novelty, inventive step and industrial applicability can be established on the subject-matter of claims 1, 7 and 16.
 - 1.1 All dependent claims 2-6, 8-15 and 17-25 of the present application are dependent on the above mentioned claims. Therefore no opinion with regard to novelty, inventive step and industrial applicability can be established on the subject-matter of claims 2-6, 8-15 and 17-25.
- 2 The subject-matter of claim 1 refers to a zone of a lens, not to the lens itself. A zone of a lens can only be a part of a lens and not an independent entity. As such the zone can not be subject-matter of a patentable claim as it cannot exist per se. Therefore claim 1 of the present application lacks clarity (Article 6 PCT).
- 2.1 Claims 2-6 are dependent on claim 1 and thereby are not clear in the sense of Article 6 PCT.
- 3 The independent claim 7 refers to a lens having the following technical features:
 - at least two lens zones having a refractive power profile
 - the area of each of the lens zones is at least 3.14mm².
 - 3.1 Further claim 7 refers to the effects the lens would have on light rays passing the lens:
 - the depth of focus is at least 1.1 diopters for light of 550nm wavelength
 - optical path length differences are such that light rays passing through adjacent zones have optical path lengths between an object point and an image point which are different by at least 1µm.Hereby claim 7 attempts to define the subject-matter in terms of the result to be achieved, which merely amounts to a statement of the underlying problem, without providing the technical features necessary for achieving this result. Therefore claim 7 is not conformal with Article 6 PCT.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/IB2004/002182

3.2 Claims 8-15 are dependent on claim 7 and thereby are not clear in the sense of Article 6 PCT.

4 The independent claim 16 refers to a lens having the following technical features:

- at least two lens zones having a refractive power profile
- a central circular lens zone
- at least one annular lens zone surrounding the circular lens zone
- the area of each of the lens zones is at least 3.14mm^2 .

4.1 Further claim 16 refers to the effects the lens would have on light rays passing the lens:

- optical path length differences are such that light rays passing through adjacent zones have optical path lengths between an object point and an image point which are different by at least $1\mu\text{m}$
- the depth of focus is at least 1.1 diopters for light of 550nm wavelength.

Hereby claim 16 attempts to define the subject-matter in terms of the result to be achieved, which merely amounts to a statement of the underlying problem, without providing the technical features necessary for achieving this result.
Therefore claim 16 is not conformal with Article 6 PCT.

4.2 Claims 17-25 are dependent on claim 7 and thereby are not clear in the sense of Article 6 PCT.

5 Additionally claim 16 appears to have all features of claim 7, hereby being de facto dependent on claim 7. Therefore the present application lacks conciseness (Article 6 PCT, Rule 6.1(a) PCT, Rule 6.4 PCT, PCT/GL/ISPE/1 5.42).